

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 876 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

ZAKHIUDDIN HAJI NOORBHAI VORA

Versus

R R AUTO SALES

Appearance:

MR SK BUKHARI for Petitioner

None present for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 02/03/2000

ORAL JUDGEMENT

#. Heard learned counsel for the petitioner.

#. Under the impugned order of the Second Additional Small Causes Court Judge, Vadodara dated 1/4/99 below Exh.32 the application filed by the plaintiff-petitioner for amendment of the plaint was came to be rejected. This order reads as under :-

"Read application. Heard the learned advocates for the parties. If the amendment is allowed, it will change the nature of the suit and, therefore, following order is passed :-

It is hereby ordered that the application for proposed amendment at Exh.32 is rejected.

No order as to costs".

#. I find sufficient merits in the contention of the learned counsel for the petitioner that the learned trial court has passed a non-speaking order. The plaintiff-petitioner vide his application under Order VI Rule 17 of Code of Civil Procedure prayed for grant of leave to amend the plaint as proposed therein. This application has to be decided on merits. It is understandable that a length order needs not to be passed while disposing of the interlocutory application but briefly the reasons are to be given out by the courts below in support of their order. The learned court below has rejected application only by recording one line order that if the amendment is allowed in the plaint, it will change the nature of the suit. The court has not given out any reasons how the nature of the suit will be changed in case the amendment in the plaint as proposed by the plaintiff-petitioner is granted. The order of the learned trial court is perverse and it cannot be allowed to stand. This case clearly falls under clause (c) of Subsection 1 of the Section 115 of the Code of Civil Procedure, 1908. In case, the order of the court below is allowed to stand it will certainly occasion a failure of justice to the petitioner.

In the result, this revision application succeeds and the same is allowed and the order dated 1/4/1999 below Exh.32 in Rent Suit No. 187 of 1983 of Second Additional Small Causes Court Judge, Vadodara is quashed and set aside. The court below is directed to decide this application of the plaintiff-petitioner afresh in accordance with law. Rule is made absolute accordingly.

(S.K.Keshote, J.)

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